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RECEIVED
AUG 28 2015
OFFICE OF THE REGIONAL ADMINISTRATOR

August 26, 2015

BY CERTIFIED MAIL

Edward J. Sciaba Jr., Manager and Registered Agent
Central Mass Recycled Metals, LLC.
14 McCracken Road
Millbury, MA 01527
Certified mail # 7014 3490 0000 7429 7841

Re: 60-Day Notice of Violations and Intent to File Suit Regarding Noncompliance
with Federal Clean Water Act's Industrial Stormwater Discharge Requirements:
14 McCracken Road, Millbury, Massachusetts

Dear Mr. Sciaba:

This office represents Clean Water Action, a national non-profit citizens' organization working for prevention of pollution in the nation's waters. Clean Water Action has over one million members nationally, more than 50,000 of whom reside in Massachusetts.

Central Mass Recycled Metals, LLC. ("Central Mass") submitted a Notice of Intent ("NOI") to be covered by EPA's reissued Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity ("General Permit") on April 29, 2013.¹ Central Mass has violated and continues to violate the Permit's terms and conditions. The company has not complied with the applicable monitoring and reporting requirements. Since Central Mass has

¹ The General Permit was first issued in 1995 and most recently reissued in June 2015 in substantially similar form. See 60 Fed. Reg. 50804 (Sept. 29, 1995); 65 Fed. Reg. 64746 (Oct. 30, 2000); 73 Fed. Reg. 56572 (Sept. 29, 2008), and 80 Fed. Reg. 34403 (June 4, 2015).

not been properly monitoring its discharges, it cannot have been ensuring that any control measures minimize pollutant discharges as required by the Permit.

We write to give notice that Clean Water Action intends to file a civil action in the United States District Court for the District of Massachusetts under section 505 of the Federal Clean Water Act (the "Act") against Central Mass. The subject of the action will be Central Mass's unlawful discharge of stormwater from its scrap and waste recycling facility at 14 McCracken Road, Millbury, Massachusetts (the "Facility"). Stormwater runoff from the Facility is discharged into the Blackstone River.

BACKGROUND

Activities that take place at industrial facilities, such as scrap and waste recycling processes, are often exposed to the weather. As runoff from rain or snowmelt comes into contact with these materials, it picks up pollutants and transports them to nearby rivers, lakes, or coastal waters and tributaries thereto, including but not limited to storm sewer systems, wetlands, and other surface waters. Stormwater pollution is a significant source of water quality problems for the nation's waters.

The following are *some* of the activities, pollutant sources and pollutants that may be present with Central Mass's scrap and waste recycling processes:

Activity	Pollutant Source	Pollutant
Stockpiling and storage of materials (including loading and unloading)	Leaking of various fluids from used automotive engines, radiators, brake fluid reservoirs, transmission housings, other vehicle parts, and lead-acid from batteries	PCBs, oil and grease, lubricants, paint pigments or additives, heavy metals, ionizing radioactive isotopes, transmission and brake fluids, fuel, battery acid, lead acid, antifreeze, benzene, chemical residue, heating oil, petroleum products, solvents, ionizing radioactive isotopes, infectious/bacterial contamination, asbestos, metals, total Kjeldahl nitrogen (TKN), battery acid, oil wastes, chemical residue
	Deterioration/corrosion of materials	

Activity	Pollutant Source	Pollutant
Material processing: Air pollution equipment (including incinerators, furnaces, wet scrubbers, filterhouses, and bag houses)	Normal equipment operations that include the collection and disposal of filter bag materials and ash, processes wastewater from scrubbers, accumulation of particulate matter around leaking joint connections, malfunctioning pumps and motors (e.g., leaking gaskets, seals or pipe connections, leaking oil-filled transformer casings)	Hydraulic fluids, oils, fuels, grease and other lubricants, accumulated particulate matter, chemical additives, and PCBs from oil-filled electrical equipment
Material processing: Combustion engines	Spills and/or leaks from fuel tanks, spills/leaks from oil/hydraulic fuel reservoirs, faulty/leaking transmissions, crank cases, and brake systems (if applicable), leaking battery casings and/or corroded terminals	Accumulated particulate matter, oil/lubricants, gas/diesel fuel, fuel additives, antifreeze (ethylene glycol), battery acid, and products of incomplete combustion
Material processing: Material handling systems (forklifts, cranes, and conveyors)	Spills and leaks from fuel tanks, hydraulic and oil reservoirs due to malfunctioning parts (e.g., worn gaskets and parts, leaking hose connections, and faulty seals)	Hydraulic fluids, oils, fuels and fuel additives, grease and other lubricants, accumulated particulate matter, chemical additives, mercury, lead, battery acid
	Damaged or faulty electrical switches (mercury filled)	
	Damaged or leaking battery casings, including exposed corroded battery terminals	
	Damaged or worn bearing housings	
Material processing: Stationary scrap processing facilities (balers, briquetters, shredders, shearers, compactors engine block/cast iron breakers, wire chopper, turnings crusher)	Leaks from hydraulic reservoirs, hose and fitting connections, worn gaskets, spills or leaks from fuel tanks, particulates/residue from scrap processing, malfunctioning pumps, and motors (e.g., leaking gaskets, seals or pipe connections, leaking oil-filled transformer casings)	Heavy metals (e.g., zinc, copper, lead, cadmium, chromium) and hydraulic fluids, PCBs

Activity	Pollutant Source	Pollutant
Materials processing: Hydraulic equipment and systems, balers/briquetter, shredders, shearers, compactors, engine block/cast iron breaker, wire chopper, turnings crusher	Particulate/residue from material processing, spills and/or leaks from fuel tanks, spills/leaks from oil/hydraulic fuel reservoirs, faulty/leaking hose connections/fittings, leaking gaskets	Hydraulic fluids/oils, lubricants, particulate matter from combustion engines, PCBs (oil-filled electrical equipment components), heavy metals (nonferrous, ferrous)
Material processing: Electrical control systems (transformers, electrical switch gear, motor starters)	Oil leakage from transformers, leakage from mercury float switches, faulty detention devices	PCBs, mercury (float switches), ionizing radioactive material (fire/smoke detection systems)
Material processing: Torch cutting	Residual/accumulated particulates	Heavy metal fragments, fines
Material handling systems	Spills and/or leaks from fuel tanks, spills/leaks from oil/hydraulic fuel reservoirs, faulty/leaking hose connections/fittings, leaking gaskets	Accumulated particulate matter (ferrous and nonferrous metals, plastics, rubber, other), oil/lubricants, PCBs (electrical equipment), mercury (electrical controls), lead/battery acids
Vehicle maintenance	Parts cleaning, waste disposal of rags, oil filters, air filters, batteries, hydraulic fluids, transmission fluids, brake fluids, coolants, lubricants, degreasers, spent solvents	Gas/diesel fuel, fuel additives, oil/lubricants, heavy metals, brake fluids, transmission fluids, chlorinated solvents, arsenic
Vehicle fueling	Spills and leaks during fuel transfer, spills due to "topping off" tanks, runoff from fueling areas, washdown of fueling areas, leaking storage tanks, spills of oils, brake fluids, transmission fluids, engine coolants	Gas/diesel fuel, fuel additives, oil, lubricants, heavy metals
Vehicle and equipment cleaning and washing	Washing and steam cleaning	Solvent cleaners, oil/lubricants/additives, antifreeze (ethylene glycol)

Clean Water Action will ask the Court to ensure Central Mass's future compliance with the Act, assess civil penalties in an appropriate amount,² award plaintiff its litigation costs, including attorney and expert fees, and award any other relief the Court deems appropriate. Clean Water Action's complaint will be filed a minimum of 60 days after the postmark date of this letter. This is a formal 60-day notice of intent to sue that is being served pursuant to 40 C.F.R., Part 135.

This notice is being provided by:

Cindy Luppi, New England Regional Co-Director
Clean Water Action
88 Broad Street, Lower Level
Boston, MA 02110
(617) 338-8131
(617) 335-6449 (fax)

Counsel for Clean Water Action in this case is:
Nora J. Chorover
Law Office of Nora J. Chorover
11 Green Street
Boston, MA 02130
(617) 477-3550

CENTRAL MASS'S VIOLATIONS AND DATES OF VIOLATIONS

Central Mass's violations are described below and are also set forth on a Table attached as Exhibit A hereto.³ The Complaint, when filed, will set forth additional days of violations that occur between the date of this letter and the date on which the Complaint is filed.

² The Act authorizes the Court to assess a penalty of up to \$37,500 a day for each violation, *see* 33 U.S.C. § 1319(d), 73 Fed. Reg. 75340 (Dec. 11, 2008).

³ Clean Water Action believes that violations have occurred on the dates identified in this letter and on Exhibit A, and not just on rain days. However, to the extent it is determined that rain days are relevant in determining the dates of violations, such rain dates through August 19, 2015 are set forth on Exhibit B hereto. The complaint, when filed, will set forth additional rain dates since August 19, 2015.

1. Failure to Comply with the Permit's Monitoring Requirements

Central Mass is required to monitor its discharges in accordance with the specific provisions of section 6 of the General Permit (pgs. 39-46) and Appendix B, section B (10). This includes monitoring for benchmark parameters and effluent limitations guidelines applicable to scrap and waste recycling facilities. General Permit, section 8.N.6. Central Mass was required to monitor for the presence of Chemical Oxygen Demand (COD), Total Suspended Solids (TSS), Total Recoverable Aluminum, Total Copper, Total Iron, Total Lead, and Total Zinc in its stormwater discharges for each quarter commencing with the July 1, 2013 to September 30, 2013 quarter. Quarterly monitoring is required to continue until four consecutive quarterly samples show that the company's discharges are below the applicable EPA benchmark levels.⁴ During the last five years, Central Mass violated these monitoring requirements by failing to monitor during the following quarters:

July 1, 2013 to September 30, 2013
October 1, 2013 to December 31, 2013
January 1, 2014 to March 31, 2014
April 1, 2014 to June 30, 2014
July 1, 2014 to September 30, 2014
January 1, 2015 to March 30, 2015

In addition, the section of the Blackstone River into which Central Mass discharges its stormwater is impaired for, among other things, Lead, Dissolved Oxygen, Phosphorus, *Escherichia coli*, and Turbidity (Massachusetts Year 2012 Integrated List of Waters, page 109). Central Mass has not been monitoring for these impairment pollutants as required by section 6.2.4 of the Permit.

To the extent additional monitoring violations become known to Clean Water Action before the action is filed, the complaint will seek remedy for such additional monitoring violations. To the extent additional monitoring violations are learned through discovery in the action, the complaint will be amended to seek remedy for such additional monitoring violations.⁵

⁴ The benchmark levels applicable to Central Mass's discharges are as follows: COD: 120 mg/L; TSS: 100 mg/L; Aluminum: 0.75 mg/L; Copper (based on receiving water hardness); Iron: 1.0 mg/L; Lead (based on receiving water hardness); Zinc (based on receiving water hardness). See General Permit, section 8.N.6.

⁵ Additional discovered monitoring violations may include, without limitation: failure to ensure representative sampling (General Permit, App. B, section B(10)(A), pg. B-4); failure to monitor from all facility outfalls (*id.*, section 6.1.1, pg. 39); failure to monitor during a measurable storm

2 Failure to Comply with the Permit's Reporting Requirements.

Central Mass is required to report certain information to EPA and the Massachusetts Department of Environmental Protection ("Mass DEP") regarding its stormwater discharges in accordance with the provisions of Section 7 of the Permit. Among other things, Central Mass must submit quarterly benchmark monitoring data to EPA. See General Permit, section 7.1.⁶ Benchmark monitoring reports were to have been filed with EPA 30 days following receipt of monitoring results. During the last five years, Central Mass violated this requirement by failing to submit a quarterly benchmark monitoring report to EPA for the following quarters:

July 1, 2013 to September 30, 2013
October 1, 2013 to December 31, 2013
January 1, 2014 to March 31, 2014
April 1, 2014 to June 30, 2014
July 1, 2014 to September 30, 2014
January 1, 2015 to March 30, 2015

Central Mass is also required to prepare and submit to EPA annual reports that include findings from its annual comprehensive site inspections and documentation of corrective actions. See General Permit, section 7.2. Central Mass failed to comply with this requirement, as set forth on Exhibit A. The company also failed to submit reports on impairment pollutant monitoring, as required by section 7.4 of the Permit (2008 MSGP, section 7.1).

To the extent additional reporting violations become known to Clean Water Action before the action is filed, the complaint will seek remedy for such additional reporting violations. To the extent additional reporting violations are learned through discovery in the action, the complaint will be amended to seek remedy for such additional reporting violations.⁷

event following the preceding storm by at least 3 days (*id.*, section 6.1.3, pg. 39); failure to conduct monitoring in accordance with test procedures approved under 40 CFR Part 136 (*id.*, App. B, section B(10)(D), pg. B-4); or failure to sample within the first 30 minutes of a measurable storm event (*id.*, section 6.1.4, pg. 39).

⁶ If the data contains any exceedences of benchmarks, it must also be submitted to Mass DEP. See General Permit, section 9.1.2.4.

⁷ Additional discovered reporting violations may include, without limitation, failure to submit all reporting data to EPA no later than 30 days after receipt of laboratory results (General Permit, section 7.4).

3. Failure to Ensure that Control Measures Minimize Pollutant Discharges

The General Permit requires Central Mass to ensure that its control measures minimize its stormwater pollutant discharges. General Permit, section 2.0 (pg. 14). Central Mass must take corrective action to modify its control measures whenever it finds that they “are not achieving their intended effect of minimizing pollutant discharges.” *Id.*, section 2.1. Corrective action must be taken whenever the results of monitoring show that “an exceedence of the 4 quarter average is mathematically certain.” *Id.*, section 4.2 (pg. 27). Documentation of corrective action must be included in the annual report. *Id.*, section 4.4 (pgs. 28-29). Since Central Mass has failed to properly monitor its stormwater discharges, it cannot have ensured that control measures are minimizing its pollutant discharges.

This Notice Letter alleges that Central Mass failed to minimize pollutants and implement adequate control measures and corrective action based on information presently available to Clean Water Action. If additional information regarding this violation becomes known to Clean Water Action in the future, the complaint may set forth some or all of such additional information.

4. Failure to Submit a Full and Complete Notice of Intent

When submitting an NOI to EPA in accordance with the Permit, a discharger is required to state whether it discharges to an impaired waterbody. General Permit, Appendix G, pg. 9 (2008 MSGP, Appendix G, pg. 6). Central Mass does not appear to have submitted this information with its Notice of Intent. This violation has been ongoing on a daily basis since April 29, 2013.

CONCLUSION

Clean Water Action believes this Notice of Violations and Intent to File Suit sufficiently states the basis for a civil action. During the 60-day notice period, we would be willing to discuss effective remedies for the violations noted in this letter that may avoid the necessity of litigation. If you wish to pursue such discussions, please have your attorney contact us within the next 20 days so that negotiations may be completed before the end of the 60-day notice period. We do not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Central Mass Recycled Metals, LLC

8/26/2015

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Sincerely,

A handwritten signature in black ink, appearing to read "Nora J. Chorover", followed by a horizontal line.

Nora J. Chorover

Attorney for
CLEAN WATER ACTION

cc: (by certified mail)

Curt Spalding, Regional Administrator
EPA New England, Region 1,
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Massachusetts Department of Environmental Protection
One Winter Street
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EXHIBIT A**CENTRAL MASS'S VIOLATIONS**

Type of Violation	Quarter	Parameters	Beginning Date of Violation	Earliest End Date of Violation
Failure to Monitor for Compliance with Benchmark Limit	Jan-Mar 2015	All	March 31, 2015	The present
Failure to Report on Compliance with Benchmark Limit	Jan-Mar 2015	All	April 30, 2015	The present
Failure to Monitor for Compliance with Benchmark Limit	Oct-Dec 2014	All	December 31, 2014	The present
Failure to Report on Compliance with Benchmark Limit	Oct-Dec 2014	All	January 31, 2015	The present
Failure to Monitor for Compliance with Benchmark Limit	Jul-Sep 2014	All	September 30, 2014	The present
Failure to Report on Compliance with Benchmark Limit	Jul-Sep 2014	All	October 31, 2014	The present
Failure to Monitor for Compliance with Benchmark Limit	Apr-Jun 2014	All	June 30, 2014	The present
Failure to Report on Compliance with Benchmark Limit	Apr-Jun 2014	All	July 31, 2014	The present
Failure to Monitor for Compliance with Benchmark Limit	Jan-Mar 2014	All	March 31, 2014	The present
Failure to Report on Compliance with Benchmark Limit	Jan-Mar 2014	All	April 30, 2014	The present
Failure to Monitor for Compliance with Benchmark Limit	Oct-Dec 2013	All	December 31, 2013	The present
Failure to Report on Compliance with Benchmark Limit	Oct-Dec 2013	All	January 31, 2014	The present
Failure to Monitor for Compliance with Benchmark Limit	Jul-Sep 2013	All	September 30, 2013	The present
Failure to Report on Compliance with Benchmark Limit	Jul-Sep 2013	All	October 31, 2013	The present
Failure to Monitor for Discharges to Impaired Waters	Jan-Mar 2015	All	March 31, 2015	The present
Failure to Report on Discharges to Impaired Waters	Jan-Mar 2015	All	April 30, 2015	The present
Failure to Monitor for Discharges to Impaired Waters	Oct-Dec 2014	All	December 31, 2014	The present
Failure to Report on Discharges to Impaired Waters	Oct-Dec 2014	All	January 31, 2015	The present
Failure to Monitor for Discharges to Impaired Waters	Jul-Sep 2014	All	September 30, 2014	The present
Failure to Report on Discharges to Impaired Waters	Jul-Sep 2014	All	October 31, 2014	The present
Failure to Monitor for Discharges to Impaired Waters	Apr-Jun 2014	All	June 30, 2014	The present

Type of Violation	Quarter	Parameters	Beginning Date of Violation	Earliest End Date of Violation
Failure to Report on Discharges to Impaired Waters	Apr-Jun 2014	All	July 31, 2014	The present
Failure to Monitor for Discharges to Impaired Waters	Jan-Mar 2014	All	March 31, 2014	The present
Failure to Report on Discharges to Impaired Waters	Jan-Mar 2014	All	April 30, 2014	The present
Failure to Monitor for Discharges to Impaired Waters	Oct-Dec 2013	All	December 31, 2013	The present
Failure to Report on Discharges to Impaired Waters	Oct-Dec 2013	All	January 31, 2014	The present
Failure to Monitor for Discharges to Impaired Waters	Jul-Sep 2013	All	September 30, 2013	The present
Failure to Report on Discharges to Impaired Waters	Jul-Sep 2013	All	October 31, 2013	The present
Failure to Submit Annual Report	2014	n/a	November 12, 2014	The present
Failure to Conduct and Document Required Inspections	2014	n/a	September 30, 2014	The present
Failure to Submit Annual Report	2013	n/a	November 12, 2013	The present
Failure to Conduct and Document Required Inspections	2013	n/a	September 30, 2013	The present
Failure to Minimize Pollutants and Implement Adequate Corrective Action	All	All	September 30, 2013	The present
Failure to Submit a Full and Complete Notice of Intent	n/a	n/a	April 29, 2013	The present

EXHIBIT B

**DAYS BETWEEN
JULY 1, 2013 AND AUGUST 19, 2015
ON WHICH STORMWATER FROM FACILITY
DISCHARGED TO WATERS OF THE UNITED STATES**

July 2013:	8, 12, 23, 24, 26, 27, 30
August 2013:	2, 8, 10, 27
September 2013:	1, 4, 13, 22
October 2013:	5, 6, 7
November 2013:	2, 8, 18, 27, 28
December 2013:	7, 10, 15, 18, 24, 30
January 2014:	3, 6, 7, 11, 12, 15, 19, 22
February 2014:	4, 5, 6, 14, 16, 19, 20, 21, 22
March 2014:	13, 20, 30, 31
April 2014:	1, 5, 8, 16, 24, 27
May 2014:	1, 2, 17, 23, 24, 28, 31
June 2014:	4, 6, 11, 14, 26
July 2014:	4, 5, 15, 16, 28, 29
August 2014:	13, 14, 22
September 2014:	7, 14, 21
October 2014:	1, 2, 5, 12, 17, 23, 24
November 2014:	2, 7, 14, 17, 18, 24, 25, 27
December 2014:	3, 4, 6, 7, 9, 10, 11, 17, 25
January 2015:	4, 5, 13, 19, 24, 25, 27, 28
February 2015:	2, 3, 8, 9, 10, 15, 22
March 2015:	2, 4, 15, 27, 29
April 2015:	4, 8, 9, 10, 21
May 2015:	31
June 2015:	1, 2, 3, 10, 15, 16, 21, 28, 29
July 2015:	2, 10, 25, 29, 31
August 2015:	12, 16

